

**Family Law Information Centre
Court Procedure Booklet #9**

Opposing an Application that Involves Child Support

The Family Law Information Centre and Queen's Bench Chambers Office cannot give you legal advice or financial guidance, and cannot predict the outcome of court decisions.

This booklet provides general information only. You should speak to a lawyer for legal advice about your own situation.

The Court Procedure Booklets listed on the inside cover of this booklet are available electronically at ***www.albertacourts.ab.ca***.

The Court Procedure Booklets are available for sale from Queen's Printer Bookstore by phoning (780) 427-4952 in Edmonton, or (403) 297-6251 in Calgary, or by phoning 310-0000 toll-free from anywhere in Alberta and asking for either of these phone numbers, or by accessing the Queen's Printer website at ***www.gov.ab.ca/qp***.



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Family Law Information Centres

The Family Law Information Centres can provide information about:

- the Federal Child Support Guidelines,
- how to calculate child support,
- how to apply for or change a Child Support Order,
- how to oppose an application that involves child support, and
- the procedures that must be followed in other family law matters, such as spousal support and child custody.

Family Law Information Centres can be found at the following locations:

Family Law Information Centre, Edmonton

Law Courts Building
1A Sir Winston Churchill Square
Edmonton, Alberta, T5J 0R2
Tel: 780-415-0404
Fax: 780-415-0403

Family Law Information Centre, Calgary

Court House Annex
603 - 6th Avenue SW
Calgary, Alberta, T2P 0T3
Tel: 403-297-6600
Fax: 403-297-6605

Family Law Information Centre Court Procedure Booklets

Applications Dealing With Child Support Or Arrears

If your application deals with child support or arrears, you should read the booklet "Information for Unrepresented Parties about Child Support Matters" before reading the appropriate procedure booklets below.

Child Support — when both parties live in Alberta

Obtaining Income Information from the Other Party for Child Support Applications

Applying for an Order for Child Support

Changing an Existing Order for Child Support

Decreasing Child Support, Reducing or Cancelling Arrears, and Stay of Enforcement

Reducing or Cancelling Arrears and Stay of Enforcement (where there is no change to ongoing support)

Applying for an Order for Child Support Under the Parentage and Maintenance Act

Applying for a Consent Order that Includes Child Support

Opposing an Application that Involves Child Support

Child Support — when the respondent lives outside Alberta

Provisional Application to Change an Order for Child Support - Divorce Act

Spousal Support

Applying for an Order for Spousal Support

Changing an Existing Order for Spousal Support

Custody and Access

Applying for an Order for Custody and/or Access

Changing an Existing Order for Custody and/or Access

Combination Applications

Applying for an Order for Child Support and Custody and/or Access

Changing an Existing Order for Child Support and Custody and/or Access

Applying for an Order for Child Support and Spousal Support

Changing an Existing Order for Child Support and Spousal Support

Applying for an Order for Child Support, Spousal Support and Custody and/or Access

Changing an Existing Order for Child Support, Spousal Support and Custody and/or Access

Restraining or Protection Orders

Applying for a Restraining Order Without Notice

Applying for a Protection Order on Notice

Review of an Emergency Protection Order

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Opposing an Application that Does Not Involve Child Support

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Opposing an Application that Involves Child Support



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About this Booklet

This booklet outlines what you must do when opposing an application that involves child support. You may be opposing an application for a first time child support order or an application to increase or decrease an existing child support order.

If you want to make your own court application, this booklet will not assist you. Please see the list of other court procedure booklets on the inside front cover of this booklet.

You will have been served with a Notice of Motion, an Affidavit, and Child Support Summary Sheet(s).

The Notice of Motion will tell you the date, time and place of the upcoming court application and will set out everything that the other party (the applicant) will be requesting from the court.

The Affidavit contains the facts that the applicant is relying upon.

The Child Support Summary Sheet(s) contain a summary of how the applicant has calculated child support under the *Federal Child Support Guidelines*.

Note: If the application is set to be heard in the afternoon or on a “Special Family Law Chambers” date, you will have to follow different rules for filing and serving your documents and will be subject to strict time limits. The steps for filing and serving documents in Steps 3 and 4 of this booklet will not apply to you. You will need to ask about these rules at the Queen’s Bench Chambers (or Clerk’s) Office. However, you may still use the forms in this booklet.

If you agree to everything the applicant is requesting from the court, you may be able to apply for a Consent Order. For more information, see the Court Procedure Booklet, *Applying for a Consent Order that Includes Child Support*.

If you do not agree to what the applicant is requesting from the court, then you must oppose the court application made by the applicant. You will need to follow each of the steps outlined in this booklet. The judge will determine the appropriate amount and terms of the Order.

In all cases, including Consent Orders, the judge will refer to the *Federal Child Support Guidelines*. These guidelines make sure that the amount of child support is reasonable and in the

best interest of the children.

The process outlined in this booklet is a very formal one that is designed to ensure fairness. It is important that you follow each step carefully and thoroughly. The legal terms that you will need to know are explained in Appendix 1.

You should speak to a lawyer to determine if you have sufficient reasons to oppose the application, what evidence should be presented to the court, and the possible outcomes for the application.

If you decide to go ahead without a lawyer, you may need to consult other sources of information as you prepare for court. You can find the following documents at your local court house library, other libraries or at the listed websites:

- *Alberta Rules of Court* - www.gov.ab.ca/qp/rules.html
- *Family Law Practice Notes (attached to the Alberta Rules of Court)* - www.albertacourts.ab.ca/webpage/qb/qb_family_law_practice_notes.htm
- *Divorce Act* - founder.library.ualberta.ca/ftp/en/laws/title/d/index.html
- *Federal Child Support Guidelines* - www.canada.justice.gc.ca/en/ps/sup/index.html
- *Domestic Relations Act, Parentage and Maintenance Act and Maintenance Enforcement Act* - www.gov.ab.ca/qp/acts.html

Before you Begin

Parenting After Separation Seminar

If you haven't already, you may have to attend the Parenting After Separation Seminar before you can oppose the application. For more information about this, see the *Notice Of Mandatory Seminar* sheet, which is available from the Family Law Information Centre (please see the inside front cover of this booklet for locations) or Chambers Office (Clerk's Office).

Step 1: Complete the Child Support Data Sheets

1-1 Gather income information

Gather the income information needed to determine the amount of child support that should be paid according to the *Federal Child Support Guidelines*. This financial information should at least include: copies of the Income Tax T-1 General forms and notices of assessment and reassessment for each of the three most recent taxation years from Canada Customs and Revenue Agency, copies of the three most recent pay stubs showing gross pay for the year to date, or other proof of current income, and any other information you have to support the calculation of your and the other party's guideline income. You will also need a detailed list of any special expenses either party is asking for under Section 7 of the *Guidelines*. For more information, please see Sections 7 and 21 of the *Federal Child Support Guidelines*, and the booklet *Information for Unrepresented Parties about Child Support Matters*.

You may have already provided copies of your financial information to the applicant in response to a Notice to Disclose. The applicant's Affidavit should contain the applicant's income information and a list of any special expenses claimed by the applicant. If you do not accept the applicant's income information or guideline income calculation contained in the Affidavit, you should gather any other financial information that you used to calculate the applicant's guideline income.

Note: Even if the *Federal Child Support Guidelines* do not require the income information of the person who will be receiving child support, the judge may still require it.

1-2 Complete the Child Support Data Sheets

You can get copies of the Child Support Data Sheets (Data Sheets) from the Family Law Information Centre, or if you live outside of Edmonton or Calgary, from your closest Clerk's Office.

1-3 Have your Data Sheets reviewed

Your Data Sheets must be formally reviewed. Take the Data Sheets, along with copies of the applicant's Affidavit, and all income and other financial information, to the nearest Family Law Information Centre and they will review them. The addresses are on the inside of the front cover of this booklet.

Make sure you take copies of all income and other

financial information with you. The Family Law Information Centre cannot review your Data Sheets without copies of this financial information.

If you live outside of Edmonton and Calgary, the review may be done at your closest Clerk's Office.

Once the Family Law Information Centre has reviewed your Data Sheets, they will provide you with a form called a Review Memo, along with Child Support Summary Sheet(s). You will need the Review Memo and the Child Support Summary Sheet(s) in later steps.

Step 2: Prepare an Affidavit

Affidavit evidence is the only type of evidence that a chambers judge will accept. It is important to include everything you need to oppose the applicant's application and everything you want the judge to know. The only facts that you can discuss in court are those that are included in your or the other party's Affidavit on the court file.

The facts that you include in your Affidavit must be complete, accurate and relevant to the application before the court. There are serious consequences if you do not tell the truth. Remember that the other party or their lawyer can cross-examine or ask you questions on anything you include.

2-1 Prepare an Affidavit

You may use the sample Affidavit that begins on page 21. The facts in the Affidavit should be listed in separate numbered paragraphs. Each paragraph must be numbered consecutively (1,2,3...). Complete as much of the sample Affidavit as applies to your case. Then cross out any paragraphs that do not apply to your situation. See the instructions on page 20 on how to delete information from a court document.

Next, add any other facts you feel are necessary to oppose the applicant's application. Some sample clauses are on page 39. These clauses are just samples. You may need to print or type other clauses in order to present all of your facts.

Remember that the Affidavit will be read by the judge. Make sure that it is readable and understandable. If your Affidavit is messy or confusing, you will need to re-type the sample Affidavit.

Identify each document that you refer to in the Affidavit as

Step 3: File the Affidavit

an “Exhibit” and letter each one consecutively (Exhibit “A,” Exhibit “B,” and so on). For example your Affidavit may discuss “a copy of the letter from my employer dated January 1, 2000, which is attached and marked as Exhibit A.”

Then attach one copy of each exhibit, in alphabetical order, to the Affidavit, immediately after the signature page and immediately before the last page (called the backer). Label each exhibit clearly as Exhibit “A,” Exhibit “B,” and so on.

2-2 Swear or affirm to the truth of your Affidavit before a commissioner for oaths

You must swear or affirm before a commissioner for oaths that the contents of your Affidavit are true. You may be asked to show personal identification.

A Chambers Clerk may act as a commissioner for oaths. The commissioner for oaths will check to make sure that each exhibit mentioned in the Affidavit is attached to the Affidavit. Each exhibit will have to be stamped with an exhibit stamp. The commissioner for oaths has the stamp. The stamp must be filled in for each exhibit. It is the commissioner for oaths who must sign each completed stamp.

3-1 Make copies of your documents

You will need multiple copies of the documents that you have already completed. You should make the following number of copies of each document:

- Three copies of your Affidavit and all exhibits (total of four with the original).
- Three copies of your Review Memo and Child Support Summary Sheet(s) (total of four).

Whenever you photocopy your Affidavit , you must photocopy all of the exhibits as well.

3-2 File the Affidavit

Take the originals and the copies of these documents to the Chambers Office for filing. The address for the Chambers Office in each judicial district is on the inside back cover of this booklet. In smaller centres, the Chambers Office may not be a

Step 4: Serve the Affidavit, Review Memo and Child Support Summary Sheet(s)

separate section, but would be part of the Queen's Bench Clerk's Office.

The Chambers Clerk will file your Affidavit and return copies to you. The clerk may not file your Review Memo and Child Support Summary Sheet(s), but may take a copy.

The *Alberta Rules of Court* contains specific rules to guarantee that parties have been notified of a court action, application or any resulting court orders. These rules refer to the "serving" of documents. You may want to refer to *Rules 13 to 26* of the *Alberta Rules of Court* for the procedure for service of court documents.

The applicant must receive one copy of each of the following:

- the filed Affidavit; and
- the Review Memo and Child Support Summary Sheet(s).

It is recommended that you serve the documents by delivering and leaving them at the address for service shown on the backer (back page) of the applicant's Notice of Motion. Note: If the address contains a suite number, you must either deliver the documents directly to the suite or place them in the mailbox for the suite. You must serve these documents at least 24 hours prior to the court date.

Step 5: Prepare and File an Affidavit of Service

5-1 Prepare the Affidavit of Service

There is a sample Affidavit of Service beginning on page 41. The Affidavit of Service is used to explain how and when the applicant received a copy of your Affidavit, Review Memo and Child Support Summary Sheet(s). One filed copy of your Affidavit and a copy each of the Review Memo and Child Support Summary Sheet(s) must be attached to the Affidavit of Service as exhibits.

You must swear or affirm before a commissioner for oaths that the contents of the Affidavit of Service are true.

A Chambers Clerk may act as a commissioner for oaths. You may be asked to show personal identification.

Step 6: Going to Court

5-2 Copy the Affidavit of Service

Make one copy of the complete Affidavit of Service. The complete Affidavit consists of the Affidavit of Service and all exhibits, including one copy each of the Affidavit, Review Memo and Child Support Summary Sheet(s).

5-3 File the Affidavit of Service

File the original and the copy of the Affidavit of Service with the Chambers Office. They will return one filed copy to you. Take this copy with you when you go to court.

6-1 Prepare for court

Before going to court you should read “Points to Remember When Representing Yourself in Court” on page 9.

You will need to take the following things with you to court:

- a pen and paper to write down the judge’s decisions as well as the judge’s name, the court room number and date of the application;
- your copy of the filed Affidavit of Service which includes the Affidavit, Review Memo and Child Support Summary Sheet(s); and
- one copy of the Review Memo and Child Support Summary Sheet(s) to hand to the clerk in court.

6-2 Attend court

Find your court room number by checking the Chambers lists which are posted in the court house. You can also check with a clerk. Make sure you have the correct court room number. There may be more than one court room in the building hearing family matters at the same time.

The application you are opposing will be assigned a number on the Chambers list. This number will be called when it is time for the application to be heard.

Other matters will be scheduled in court at the same time as the applicant’s. You will have to wait until the applicant (or the number assigned to the application) are called. Difficult or

long applications may have to wait until others are dealt with or may be moved to another date and time.

Hand the Review Memo and Child Support Summary Sheet(s) to the clerk in court when the matter is called. The clerk will hand them to the judge.

The applicant will be asked to present their case to the judge first. After the applicant has finished speaking, the judge will ask you to present your case. The only evidence you can discuss in court is what is included in your or the other party's Affidavit on the court file. You should be prepared to answer any questions the judge may have.

If you are unsuccessful in opposing the applicant's application, you may have to pay costs.

Points to Remember When Representing Yourself in Court

The court house is a very traditional place. When you are representing yourself it is up to you to persuade the judge that your position is right. For this reason you must act, dress and speak in a way which helps and does not distract from your case. Here are some tips:

1. When you come to court, dress in clothes that are clean, neat and in good repair. You should be clean and neatly groomed.
2. How you act is as important as how you look. Be respectful to everyone in the court house, which includes the judges, court staff, lawyers, the other party involved in your case and security officers.
3. The court has a very busy schedule. Be on time for any application, case management meeting, pre-trial conference, or trial, or there may be consequences. For example, if you are late for an application, your application may be dismissed if you are the applicant or, if you are the respondent, the court may proceed without you.
4. The judge will not speak to you about your case except during a scheduled application, case management meeting, pre-trial conference or trial, and when the other party or lawyer is present.
5. Wait until you are addressed by the judge before talking, otherwise the judge will not respond.
6. Staff in the Clerk's office cannot give you legal advice or recommendations on what you should do. Always be polite to court house staff and provide them with any information or materials that are requested.
7. When you represent yourself it is very important that you take all necessary materials to support your application. You may be able to get legal advice from a lawyer ahead of time to make sure you are proceeding correctly and have all the right materials in their required form. Some lawyers will provide assistance with the preparation of these documents.
8. When you are attending a chambers application and the case is called, come forward to the counsel table at the front of the court room and tell the judge who you are. Always stand when you are addressing the judge. Refer to male judges as "My Lord" and female judges as "My Lady." Speak slowly in a clear voice with sufficient volume.
9. Be respectful to the judge, any counsel and the other party. Do not speak out of turn. Outbursts, inappropriate language and displays of temper will not be tolerated and could well influence the outcome of your application.

Step 7: Sign the Court Order

The applicant will have to prepare a written Order. Unless the judge orders otherwise, the applicant must arrange for you to sign the Order once it is prepared. Your signature below the line "Approved as to form and content" does not mean that you are agreeing with the Order made. It means that you agree that the terms of the written Order are substantially the same as the verbal order made by the judge in court. You can refer to the notes that you made in court and compare them with the Order that was prepared. You may also want a copy of the notes that the clerk made in court. You can obtain them for a fee from the Chambers Office.

The applicant should serve you with a filed copy of the Order after it has been signed by the judge and filed with the court.

Appendix 1: Explanation of Legal Terms

The following terms are used throughout this booklet and during the application process.

Action

A lawsuit or an application made in the courts. For example, when you apply to the court for a change in child support or to gain custody of a child, you are taking a legal action. You may take a legal action to enforce your rights or to correct a wrong done to you by another person. When an action is started, the court assigns it an action number. This number is then used in all of the documents related to the action filed with the court. See *Rules of Court: Rules 6-12* and *Rule 563*.

Affidavit

A written statement of facts that a person swears or affirms are true before a commissioner for oaths. The facts in the statement will be used as evidence in court. See definitions for evidence and fact. Affidavits may also be used to prove the identity of the person signing a document and to prove that you have delivered documents to another person. These types of Affidavits are called an Affidavit of Execution and an Affidavit of Service and are explained below. See *Rules of Court: Rules 298-314* and *Family Law Practice Note 3*.

Affidavit of Execution

This is a written statement in which a person swears or affirms that they witnessed another person signing a document and verifies the identity of the person signing.

Affidavit of Service

This is a written statement telling when, where and how documents have been served on another person, and how that person was found and identified. It is sworn or affirmed to and signed by the person who served the documents. See the definition for service.

Applicant

The person who is making an application to the court. See the definitions for respondent and application.

Application

Asking the court to make an Order. You can make several applications in the course of a court action. See the definitions for action, Notice of Motion and Order. See *Rules of Court: Rule 384-387 and 573-574* and *Family Law Practice Note 3*.

Approval as to Form and Content

Signing an Order that was not signed by the judge when the application was made. If an Order is not signed by the judge when the application is made, the respondent must sign the Order to show that they agree that the Order they receive is the same as the Order given by the judge in court. This does not mean that the person agrees with the Order. See the definition for consent. See *Rules of Court: Rule 323.1*.

Arrears

Any amount that has not been paid on a Support Order. If the monthly amounts ordered to be paid are not paid, they become arrears. Arrears can only be reduced by payment or by Order of the court.

Backer

The last page of a court document. It lists the action number, style of cause and your address on the right-hand side of the page. See definitions for action and style of cause.

Chambers (court)

A type of court where the judge makes a decision based upon affidavit evidence alone rather than oral testimony. Chambers applications usually take 10 to 20 minutes in total. If they are more complicated they should be scheduled for a special chambers date. At some court houses there is a separate chambers for family matters.

Chambers Clerk

Person in charge of reviewing and filing of court documents (notices of motion, affidavits, all related Court Orders, etc.), commissioning of affidavits for court matters, and processing documentation for scheduling of court lists. Can provide information on available court dates and filing deadlines.

Chambers Office / Clerk's Office

A department of the Court of Queen's Bench Clerk's Office. In smaller centres the chambers section may not be separately identified, but would be part of the Queen's Bench Clerk's Office. The Chambers Office deals with chambers matters only. See definition for Chambers Clerk for functions of the Chambers Office.

Clerk in Court

Person who organizes the court files and records the outcome of the court application for the judge. The clerk sits at the front of the court below the judge.

Commissioner for Oaths

Someone authorized by the province to swear or "commission" affidavits. Lawyers and court clerks are commissioners for oaths. Often banks and real estate offices have commissioners.

Consent

When a person voluntarily agrees to something proposed by another. If you sign an Order saying you are consenting to the Order, you are saying that you agree with everything that has been stated in the Order.

Consent Order

A Court Order signed by both parties showing they agree with everything that is in the Order.

Corollary Relief

Orders that may be granted at the time of divorce. Some examples of this are Orders related to custody, access and child support.

Costs

This is money that must be paid to another party or to the court. You may be ordered to pay costs if you are unsuccessful with your application or if you fail to attend a scheduled court date. See *Rules of Court: Schedule C*.

Court

In this booklet, court refers to the Alberta Court of Queen's Bench.

Defendant

The person responding to a court action. If you start a divorce action, you are the plaintiff and your spouse is the defendant.

Dismissal

A judge's refusal to grant an application.

Evidence

In court, the statements that are given under oath or the documents or other items that are shown to prove your case or disprove another person's case.

Exhibit

Any paper or document that is referred to, or mentioned, in an Affidavit. It should then be marked as an "Exhibit" and attached as a part of the Affidavit. See *Rules of Court: Rules 311-312*.

Fact

A thing that is known to have occurred, to exist, or to be true. It is a piece of factual evidence. See *Rules of Court: Rules 305(1)*.

Federal Child Support Guidelines

These *Guidelines* are changes to the *Divorce Act* that were introduced on May 1, 1997. They are made up of rules and tables for calculating the amount of child support that should be paid based on income, number of children, and the province or territory of residence.

File / Filing

Giving documents to the court clerk to place on the court file. Any documents to be filed must have a backer, with the action number written on it, so that the clerk can find the file. See *Rules of Court: Rules 8-9*.

Gross

The total amount before any deductions. For example, gross income would be the total dollars that a person receives before any income taxes are deducted. The gross cost of daycare is the cost of daycare before any subsidies or income tax deductions are taken into account. See definition of net.

In Loco Parentis

A legal term for someone who is not a biological parent of a child but who acts like a parent to the child. The court may treat that person the same as a biological parent for custody and access rights. The court may also decide that the person has a financial responsibility to support the child.

Judge

In this booklet, judge means a Justice of the Court of Queen's Bench.

Judicial Districts

Locations of Courts of Queen's Bench. These include Grande Prairie, Peace River, Fort McMurray, St. Paul, Edmonton, Wetaskiwin, Red Deer, Calgary, Drumheller, Lethbridge and Medicine Hat. See the inside back cover of this booklet for addresses and phone numbers.

Maintenance Enforcement Program (MEP)

A provincial government department that is authorized to collect child and spousal support on behalf of the person entitled to receive the support. MEP may take steps such as garnishee (seizure) of bank accounts and pay cheques, seizure of assets, and suspension of driver's licences if support payments are not made voluntarily. MEP cannot reduce the amount of support payable, and MEP will not stop enforcing the Order unless instructed to do so either by the creditor or by the court. See definition of Stay of Enforcement.

Net

The amount after deductions. For example, net income refers to a person's income after income taxes are deducted. The net cost of daycare is the cost of daycare after any subsidies or income tax deductions are taken into account. See definition of gross.

Notice of Motion

A court form that is filed by the applicant. It tells the court and the respondent the date, time and place of the upcoming application, and everything the applicant will be asking the court for. See *Rules of Court: Rule 384*.

Notice to Disclose

A document that asks a person to provide financial information. See *Family Law Practice Note 2*.

Order

What the judge directed in court. The Order is then written up by the applicant and signed by the judge, or by the clerk of the court on the judge's behalf. See the definition for approval as to form and content. See *Rules of Court: Rules 315-330*.

Party

Someone who is directly involved in the court action or application. A party is either a plaintiff or defendant, or an applicant or respondent.

Petitioner

The person who starts a court action, for example, a divorce action. Divorces started before 1997 named the parties as petitioner and respondent. After 1997, they were named plaintiff and defendant.

Plaintiff

The person who starts a court action, for example a divorce action. See definition for defendant.

Respondent

A person who is responding to an application to the court. See definition for applicant.

Rules of Court

A book of rules that contains the basic procedures that must be followed for beginning and carrying out a court action.

Service

Delivering a document to the other party in an action or application. The documents must be served in a way that is described in the *Rules of Court* or allowed by the court in an Order for Substitutional Service. See *Rules of Court: Rules 13-26 and 564*.

Statement of Claim

A document that starts a court action unless stated otherwise in the *Rules of Court* or legislation. See *Rules of Court: Rule 6(1)*.

Stay of Enforcement

An Order of the Court of Queen's Bench telling the Maintenance Enforcement Program to stop taking steps to collect any support that is still owed by a person. A Stay of Enforcement is often ordered for a limited time period, and is usually ordered with conditions imposed upon the person who is required to pay the support. For example, one condition may be that minimum monthly payments must be made or the Stay of Enforcement will end.

Statute

A law passed by the government. For example, the *Divorce Act* is a law passed by the federal government and the *Parentage and Maintenance Act* is a law passed by the provincial government.

Support Order

An Order made by a court directing that money be paid, usually on a monthly basis, for either spousal support or child support. The word "maintenance" can be used instead of "support." In the past, the term "alimony" was used to refer to spousal support.

Style of Cause

The part of any court document that identifies the type of court, and the place where the action will be heard (judicial district), the full names of the parties, and the name of the document. The style of cause is found at the top of the first page and on the backer of every court document filed. It must be exactly the same in all documents.

Substitutional Service Order

If it is impossible or impractical to serve the respondent personally with court documents, you may ask the court for an Order that will allow you to serve the respondent in a different way. The court may then grant a Substitutional Service Order. This defines how you can serve the respondent with the court documents. Examples of substitutional service are posting the document on the person's door, delivery by regular mail or courier, delivery to someone else who knows or lives with the person, or advertising in a newspaper. See *Rules of Court: Rule 23*.

Variation Order

A Court Order that changes the terms of an existing Court Order. See *Rules of Court: Schedule B, Form 19*.

Appendix 2: Sample Court Documents

What forms are included

The following forms are contained in this booklet:

- Affidavit (pages 21 - 39)
- Affidavit of Service (pages 41 - 47)

General Instructions for Completing Court Documents

- These forms have been developed for typical users. If your document is more complicated or requires more space, then you will have to re-type the form.
- All documents must be readable.
- Photocopy the forms you need from the booklet and work on the photocopies as your “rough copy.” Keep the originals to prepare your final copy. You should read the form carefully before beginning to fill it out.
- Fill in all the blank lines with requested information, by either hand printing or typing, (except where signatures are required).
- Note that there is a style of cause (see Explanation of Legal Terms) at the top of the first page and on the backer of each form. Make sure that the style of cause on the first page is filled out in the same way as the one on the backer.
- The backer is the last sheet of the form. Fill in the backer with the requested information, making sure to include your court action number. The backer should be reversed so that the type faces out and is visible once the whole document is stapled together.

How to delete information from a document

- You must make sure every statement in your Affidavit is true. If there are paragraphs that do not apply to you or are not correct, you should cross them off.
- To cross off paragraphs, draw a straight horizontal line, in ink, through both the first and last lines of the paragraph, then draw a straight diagonal line joining these lines and forming a letter "Z."
- To cross off a single sentence, draw a horizontal line, in ink, through the middle of the sentence.
- Use a ruler to make your lines and initial any changes that you have made. **Make sure you put your initials at the beginning and at the end of every strikeout that you make.**
- You cannot use "white out" on any court documents. Any corrections or deletions must be neat and readable.

Affidavit

Use this form to present all of the facts that are necessary to oppose the application.

Before filing the Affidavit, make sure that you:

- ☐ include the applicant's full name and your full name in the form and on the backer
- ☐ fill in the paragraphs that apply to you and cross off the paragraphs that don't
- ☐ add any other facts you feel are necessary to oppose the Applicant's application. Some sample clauses are on page 39. These clauses are just samples. You may need to print or type other clauses in order to present all the facts you want the judge to know.
- ☐ number all of your paragraphs consecutively (1, 2, 3, 4...)
- ☐ letter each one of your exhibits consecutively (Exhibit A, Exhibit B...)
- ☐ make three copies of the original Affidavit, including all exhibits (total of four with the original).

Use a ruler when crossing off the paragraphs that don't apply to you. Cross them out by drawing a straight line through the first and last lines and a diagonal line joining them to form a "Z." Make sure that you put your initials at the beginning and at the end of every strikeout that you make. You cannot use "white out".

Note: You cannot make any changes to your Affidavit once it has been sworn.

Attach all exhibits at the end of your Affidavit just before the backer.

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
IN THE JUDICIAL DISTRICT OF _____

BETWEEN:

OTHER PARTY'S NAME

Applicant

- and -

YOUR NAME

Respondent

AFFIDAVIT

I, _____, of the _____ of _____
YOUR NAME 'CITY' OR 'TOWN' OR OTHER NAME OF CITY, TOWN, ETC

in the Province of Alberta, MAKE OATH AND SAY THAT:

1. I am the Respondent herein and as such have a personal knowledge of the following information, except where stated to be based on information and belief in which case I do believe it to be true.
2. I have read the Affidavit of the Applicant dated _____ and make this Affidavit to oppose the application of the Applicant.

Income of Respondent

3. Choose one only:

☐ I am employed at _____
NAME AND ADDRESS OF EMPLOYER

POSITION

LENGTH OF TIME IN THIS POSITION

☐ I am self-employed at _____
NAME AND PLACE OF BUSINESS

LENGTH OF TIME IN BUSINESS

☐ I have been unemployed since _____ and details of my unemployment are:
MONTH/DAY/YEAR

(Give details, including prospects of employment, any benefits you are receiving, steps you are taking to find employment, or if in school, type of program and expected completion date.)

4. I am a ☐ shareholder ☐ director ☐ officer of a corporation.
Attached and marked collectively as Exhibit '____' to this my Affidavit are copies of the financial statements of this corporation for each of the last 3 years.
5. Attached and marked collectively as Exhibit '____' to this my Affidavit are copies of my T1 General forms and notices of assessment and reassessment from Canada Customs and Revenue Agency for each of the 3 most recent taxation years (or a copy of a Canada Customs and Revenue Agency printout of my income tax returns for the last 3 years).
6. Attached and marked collectively as Exhibit '____' to this my Affidavit are copies of my 3 most recent pay remittance stubs (or statement from my employer outlining my gross pay and deductions for the year to date, and my rate of annual salary).
7. Attached and marked collectively as Exhibit '____' to this my Affidavit are copies of:
(Attach any other relevant documents to support the guideline income calculation such as student finance information or the most recent statements of income from employment insurance, social assistance, pension, disability, or workers compensation — and including any documents required by section 21 of the Guidelines.)
- _____

8. I calculate my annual guideline income to be \$_____, determined as follows:

All sources of my gross income		ANNUAL AMOUNTS
Employment income	+	\$ _____
Employment insurance benefits	+	\$ _____
Social assistance attributable to spouse only	+	\$ _____
Other: _____ SPECIFY	+	\$ _____
Total annual gross income:	=	\$ _____
Guideline adjustments to total income:		
Deduct: professional and union dues	-	\$ _____
Other guideline adjustments: _____ SPECIFY	-/+	\$ _____
Total annual adjustments to income:	-/+	\$ _____
Guideline Income (total of gross income and adjustments):	=	\$ _____

9. Choose one only:

- ☐ I do not expect any significant changes in my employment situation.
- ☐ I expect the following changes in my employment situation:

DESCRIBE CHANGES, INCLUDING EXPECTED RAISES OR CHANGES IN SALARY

Income of Applicant

10. ☐ I accept the Applicant's annual guideline income as calculated in the Affidavit of the Applicant in the sum of \$_____.

OR

- ☐ I do not accept the Applicant's guideline income as calculated in the Affidavit of the Applicant. I believe the Applicant's guideline income to be \$_____, based on the following:

AND/OR

- ☐ I ask the court to impute (consider as part of) income to the Applicant in the annual sum of \$_____ for the following reasons:

Add-on' or Special Expenses

11. I am claiming the following special expenses for the children:

**GROSS ANNUAL
AMOUNTS**

Child care expenses (daycare/babysitting)	\$ _____
Children's portion of medical or dental premiums	\$ _____
Health-related expenses in excess of \$100 annually per illness or event, net of reimbursement	\$ _____
Extraordinary expenses for primary/secondary school	\$ _____
Expenses for post-secondary education	
Tuition amount	\$ _____
Extraordinary expenses for extracurricular activities	\$ _____

Give any more details of each expense, including any contribution from child, the name of child that each expense is for, and the nature of each expense:

(If you are attaching any receipts, they must be marked as exhibits)

12. I believe the above special expenses are necessary and reasonable for the following reasons:

Attach any supporting material, and mark it as an exhibit.

13. I disagree with the following special or extraordinary expenses that the Applicant is claiming:

IDENTIFY THE SPECIAL EXPENSES THAT YOU DISAGREE WITH

I disagree with these expenses for the following reasons:

Medical or Dental Insurance Coverage

14. Choose one only:

☐ I do not have health benefit coverage available to me for the children.

☐ I have health benefit coverage available to me for the children.

Details of the plan are:

GIVE DETAILS OF COVERAGE AND COST OF THE PLAN

Choose one only:

- ☐ The Applicant does not have health benefit coverage available to him/her for the children.
- ☐ The Applicant has health benefit coverage available to him/her for the children.

Details of the plan are:

GIVE DETAILS OF COVERAGE AND COST OF THE PLAN

Spousal Support

15. Choose one only:

- ☐ The Applicant gives me monthly spousal support in the sum of \$ _____ as decided in a written Agreement or Court Order.
- ☐ I pay the Applicant monthly spousal support in the sum of \$ _____ as decided in a written Agreement or Court Order.

Other Facts

Add any other facts, in separate numbered paragraphs (starting with #16), continuing from your last numbered paragraph. Continue your list of facts onto the last (signature) page of the Affidavit.

See the sample clauses on page 39 for certain special circumstances.

____.

____.

____.

OPTIONAL ADDITIONAL PAGE - MAKE SURE YOUR CLAUSES CONTINUE ONTO SIGNATURE PAGE

SWORN BEFORE ME at the _____)
of _____, in the Province)
of Alberta, this _____ day of _____, _____)

) _____
) YOUR SIGNATURE

A COMMISSIONER FOR OATHS IN)
AND FOR THE PROVINCE OF ALBERTA)

Insert the Exhibits for your Affidavit here

Make sure the exhibits are labelled alphabetically in the order in which they appear in the Affidavit.

Put them in the same order when inserting them here.

Action No: _____
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA IN
THE JUDICIAL DISTRICT OF

BETWEEN:

OTHER PARTY'S NAME Applicant

- and -

YOUR NAME Respondent

AFFIDAVIT

YOUR NAME

YOUR ADDRESS

YOUR PHONE NUMBER

SAMPLE CLAUSES TO INCLUDE IN YOUR AFFIDAVIT

The following paragraphs are some example clauses that may fit your case. Change or adapt these examples to suit your own situation. You will have to write your own clauses that reflect the facts in your own case.

Note: These clauses are not actual legal advice. They simply show you how to present information that may be needed in special circumstances. These samples do not replace your need to get legal advice.

___ **[Shared Custody]**

The Applicant and I have shared custody of the children (or, of the following children: set out names of children) as defined by Section 9 of the *Federal Child Support Guidelines*. The following are details about the time each of us has access to or physical custody of the children over the course of the year:
(Give details.)

I have the following increased costs because of the shared custody arrangement:
(Give details.)

___ **[Children over the age of majority]**

I give the following information about the children over 18:

(Include child's income or ability to earn income, availability of school loans or grants, and expenses of child, including breakdown of any post-secondary education expenses.)

___ **[Spouse in place of a parent]**

The Applicant stands in place of the natural father/mother (choose one throughout) of the children. The natural father/mother of the children gives me monthly child support in the sum of \$ ____.

I stand in place of the natural father/mother (choose one throughout) of the children. The natural father/ mother of the children gives the Applicant monthly child support in the sum of \$ ____.

___ **[Undue hardship]**

I am claiming undue hardship. I (and/or the children) suffer from undue hardship due to the following circumstance(s):

(Give details of any circumstances of undue hardship, including the expected time that any of these circumstances will end. For possible circumstances, see S.10 of the Guidelines, and the booklet *Information for Unrepresented Parties about Child Support Matters*.)

Other example clauses could include:

___ In addition to the children of the marriage, I live with ____ adult(s) and ____ other children. (give numbers). The other adult(s) earn \$____ gross per year.

___ I pay/receive (choose one) child support for other children in the amount of \$____ per month pursuant to a Court Order or written Agreement.

___ The other party lives with ____ adult(s) and ____ other children. (give numbers)

___ The other adult(s) earn \$____ gross per year. (if unknown, give any employment details of the other adults)

___ The other party pays/receives (choose one) child support for other children in the amount of \$____ per month pursuant to a Court Order or written Agreement.

___ My household has a lower standard of living than the household of the other party. My household income ratio is ____, and his/hers is _____. (give the ratio from the standards of living test) Attached and marked as Exhibit '____' to this my Affidavit is a copy of the comparison of household standards of living test calculated in accordance with Schedule II of the Federal Child Support Guidelines.

[optional]

___ My household has a lower standard of living than the household of the other party, as evidenced by the following:

Affidavit of Service

Use this form to explain when and where the respondent received a copy of your Affidavit, Review Memo and Child Support Summary Sheet(s). You must sign the Affidavit of Service in front of a commissioner for oaths.

Before filing the Affidavit of Service, make sure that:

- ☐ you include the applicant's full name and your full name in the form and on the backer
- ☐ the paragraphs that apply to you are filled in and the paragraphs that do not apply to you are crossed off
- ☐ one filed copy of the Affidavit, and one copy each of the Review Memo and Child Support Summary Sheet(s) are attached as exhibits
- ☐ each one of the exhibits is lettered consecutively (Exhibit A, Exhibit B...)
- ☐ You sign the Affidavit of Service in front of a commissioner for oaths
- ☐ you make one copy of the original Affidavit of Service, including all exhibits

Use a ruler when crossing off the paragraphs that don't apply to you. Cross them out by drawing a straight line through the first and last lines and a diagonal line joining them to form a "Z." You must put your initials at the beginning and at the end of every strikeout.

Attach all exhibits at the end of the Affidavit just before the backer.

Action No: _____
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
IN THE JUDICIAL DISTRICT OF _____

BETWEEN:

OTHER PARTY'S NAME

Applicant

- and -

YOUR NAME

Respondent

AFFIDAVIT OF SERVICE

I, _____, of the _____ of _____,
YOUR NAME CITY OR TOWN OR OTHER NAME OF CITY OR TOWN ETC.

in the Province of Alberta, MAKE OATH AND SAY:

1. That I am an adult person.

2. That I did on the _____ day of _____, _____, serve
DATE OF SERVICE MONTH OF SERVICE YEAR

_____, the Applicant, with a true copy of the Affidavit,
OTHER PARTY'S NAME

which is annexed and marked as Exhibit 'A' to this my Affidavit, and a copy of the Review Memo and Child Support Summary Sheet(s) which are annexed and marked collectively as Exhibit 'B' to this my Affidavit, by delivering the said copies to and leaving the same at

_____.
FULL ADDRESS WHERE YOU DELIVERED THE DOCUMENTS

SWORN BEFORE ME at the _____

of _____, in the Province

of Alberta, this ____ day of _____, _____.

YOUR SIGNATURE

A COMMISSIONER FOR OATHS IN
AND FOR THE PROVINCE OF ALBERTA

Insert your Exhibits here

These include:

Exhibit 'A' Affidavit

Exhibit 'B' Review Memo and Child Support Summary Sheet(s)

Make sure the exhibits are labelled alphabetically in the order in which they appear in the Affidavit.

Put them in the same order when inserting them here.

Queen's Bench Chambers Offices

Calgary

611 - 4th Street SW

Tel: 403-297-7465

Drumheller

511 - 3rd Ave. West

Tel: 403-822-1700

Edmonton

1A St. William, Churchill Sq.

Tel: 780-422-2413

Fort McMurray

8700 Franklin Avenue

Tel: 780-745-7126

Grande Prairie

10200 - 99 Street

Tel: 780-536-5346

Lethbridge

320 - 4th Street South

Tel: 403-321-0196

Assistance To Obtaining Legal Advice

Dial a Law - Lawyer Referral

Phone: 1-800-661-1095

Legal Aid

Edmonton: 780-427-7875

Calgary: 403-297-2260

Other areas call 310-0000

Internet Sources of Information

Federal Justice Website:

www.cj.gc.ca YOUR NAME

Alberta Government Website:

www.gov.ab.ca

Alberta Justice Website:

www.gov.ab.ca/just YOUR ADDRESS

Alberta Court Website:

www.ab.ca/courts

Child Support Guidelines Website:

www.canada.justice.gc.ca/en/pj/sfp/sfp_index.html

YOUR PHONE NUMBER

Action No: _____

YOUR COURT ACTION NUMBER

Medicine Hat

IN THE COURT OF QUEEN'S BENCH OF ALBERTA IN

THE JUDICIAL DISTRICT OF

BETWEEN:

OTHER PARTY'S NAME

Applicant

- and -

YOUR NAME

Respondent

AFFIDAVIT OF SERVICE

Section 101
General Information

It is the policy of the Board of Directors
to provide for the

Board of Directors

Section 102
Board of Directors

Section 103
Officers and Directors

Section 104
Officers and Directors

Section 105
Officers and Directors

Section 106
Officers and Directors

Section 107
Officers and Directors

Section 108
Officers and Directors

Section 109
Officers and Directors

Queen's Bench Chambers Offices (or Clerk's Offices)

Calgary

611 - 4th Street SW
Tel: 403-297-7405

Medicine Hat

460 First Street SE
Tel: 403-529-8710

Drumheller

511- 3rd Ave. West
Tel: 403-823-1700

Peace River

9905 - 97 Avenue
Tel: 780-624-6256

Edmonton

1A Sir Winston Churchill Sq.
Tel: 780-422-2418

Red Deer

4909 - 48 Avenue
Tel: 403-340-5220

Fort McMurray

9700 Franklin Avenue
Tel: 780-743-7136

St. Paul

4704 - 50 Street
Tel: 780-645-6324

Grande Prairie

10260 - 99 Street
Tel: 780-538-5340

Wetaskiwin

4605 - 51 Street
Tel: 780-361-1258

Lethbridge

320 - 4th Street South
Tel: 403-381-5196

Assistance in Obtaining Legal Advice

Dial a Law - Lawyer Referral

Phone: 1-800-661-1095

Legal Aid

Edmonton: 780 - 427 - 7575
Calgary: 403 - 297 - 2260
Other areas call 310-0000

Internet Sources of Information

Federal Justice Website: www.canada.justice.gc.ca
Alberta Government Website: www.gov.ab.ca
Alberta Justice Website: www.gov.ab.ca/just
Alberta Courts Website: www.albertacourts.ab.ca
Child Support Guidelines Website:
www.canada.justice.gc.ca/en/ps/sup/index.html

